

Assembly Bill No. 706

CHAPTER 533

An act to amend Sections 132400, 132410, and 132415 of the Public Utilities Code, relating to the Metro Gold Line Foothill Extension Construction Authority, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 2011. Filed with
Secretary of State October 7, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 706, Torres. Metro Gold Line Foothill Extension Construction Authority.

Existing law creates the Pasadena Metro Blue Line Construction Authority for purposes relating to the development of a light rail project extending from the City of Los Angeles to the Cities of Pasadena and Claremont. Existing law provides that the authority shall be governed by a board consisting of 5 voting members and one nonvoting member and requires the authority to adopt a code of conduct for officers and board members of the authority that, among other things, specifies circumstances under which a board member shall be deemed to have a financial interest in a decision.

This bill would redefine the authority as the Metro Gold Line Foothill Extension Construction Authority for purposes of these provisions. The bill would provide that the board shall consist of 5 voting members and 3 nonvoting members, would require the additional 2 nonvoting members to be appointed by the City Councils of the Cities of Pasadena and South Pasadena, as specified, and would require each appointing authority to also appoint an alternate member, as specified. The bill would also specify circumstances under which board members and alternate members of the authority shall not be considered financially interested and may participate in decisions and agreements regarding the authority, any appointing authority, and any extension city, as defined. The bill would provide that a board member may simultaneously hold specified governmental positions without the holding of those positions constituting an incompatible office or activity, as specified.

Because the bill would impose new duties on local agencies, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 132400 of the Public Utilities Code is amended to read:

132400. For purposes of this chapter, the following terms have the following meanings:

(a) The “authority” is the Metro Gold Line Foothill Extension Construction Authority created under this chapter, formerly known as the Pasadena Metro Blue Line Construction Authority.

(b) The “board” is the governing board of the authority.

(c) The “commission” is the California Transportation Commission.

(d) The “LACMTA” is the Los Angeles County Metropolitan Transportation Authority.

(e) The “project” is the Los Angeles-Pasadena Foothill Extension Gold Line light rail project, formerly known as the Los Angeles-Pasadena Metro Blue Line, extending from Union Station in the City of Los Angeles to Sierra Madre Villa Boulevard in the City of Pasadena and any mass transit guideway that may be planned east of Sierra Madre Villa Boulevard along the rail right-of-way extending to the City of Claremont.

(f) The “extension cities” are the cities of Arcadia, Monrovia, Duarte, Irwindale, Azusa, Glendora, San Dimas, La Verne, Pomona, and Claremont.

SEC. 2. Section 132410 of the Public Utilities Code is amended to read:

132410. (a) The authority has all of the powers necessary for planning, acquiring, leasing, developing, jointly developing, owning, controlling, using, jointly using, disposing of, designing, procuring, and building the project, including, but not limited to, all of the following:

(1) Acceptance of grants, fees, and allocations from the state, local agencies, and private entities.

(2) Acquiring, through purchase or through eminent domain proceedings, any property necessary for, incidental to, or convenient for, the exercise of the powers of the authority.

(3) Incurring indebtedness, secured by pledges of revenue available for project completion.

(4) Contracting with public and private entities for the planning, design, and construction of the project. These contracts may be assigned separately or may be combined to include any or all tasks necessary for completion of the project.

(5) Entering into cooperative or joint development agreements with local governments or private entities. These agreements may be entered into for the purpose of sharing costs, selling or leasing land, air, or development rights, providing for the transferring of passengers, making pooling arrangements, or for any other purpose that is necessary for, incidental to, or convenient for the full exercise of the powers granted the authority. For

purposes of this paragraph, “joint development” includes, but is not limited to, an agreement with any person, firm, corporation, association, or organization for the operation of facilities or development of projects adjacent to, or physically or functionally related to, the project.

(6) Relocation of utilities, as necessary for completion of the project.

(b) The duties of the authority include, but are not limited to, all of the following:

(1) Conducting the financial studies and the planning and engineering necessary for completion of the project.

(2) (A) Adoption of an administrative code, not later than 60 days after establishment of the authority, for administration of the authority in accordance with any applicable laws, including, but not limited to, the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), contracting and procurement laws, laws relating to contracting goals for minority and women business participation, and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(B) (i) The administrative code adopted under subparagraph (A) shall include a code of conduct for employees and board members that is consistent with Sections 84308 and 87103 of the Government Code and prohibits board members and staff from accepting gifts valued at ten dollars (\$10) or more from contractors, potential contractors, or their subcontractors.

(ii) The code shall require the disclosure, on the record, of the proceedings by the officer of the agency who receives a contribution within the preceding 24 months in an amount of more than two hundred fifty dollars (\$250) from a party or participant to a proceeding, and the disclosure by the party or participant.

(iii) The code shall provide that no officer of the agency shall make, participate in making, or in any way attempt to use his or her official position to influence the decision in a proceeding, as described in Section 84308 of the Government Code, if the officer has willfully or knowingly received a contribution in the amount of more than two hundred fifty dollars (\$250) within the preceding 24 months from a party or his or her agent, or from any participant or his or her agent if the participant has a financial interest in the decision.

(iv) Any officer deemed ineligible to participate in a proceeding due to the provisions of this code of conduct may be replaced for the purposes of that proceeding by an appointee chosen by the appropriate appointing authority.

(v) Under the code of conduct, board members shall be deemed to have a financial interest in a decision within the meaning of Section 87100 of the Government Code if the decision involves the donor of, or intermediary or agent for a donor of, a gift or gifts aggregating ten dollars (\$10) or more in value within the 12 months prior to the time the decision was made.

(vi) Board members and alternate members shall not be considered financially interested, under or for the purposes of Section 1090 of the Government Code, solely by virtue of their holding office with the authority

and, concurrently, holding office with an entity set forth in subdivision (a) of Section 132415, an extension city, or both such an entity and such a city, and they may participate in decisions and agreements regarding the authority, any of the entities set forth in subdivision (a) of Section 132415, and any of the extension cities. The participation described in this clause shall not constitute a conflict of interest under or for the purposes of Section 1090 of the Government Code, or an incompatible employment, activity, or enterprise under or for the purposes of Section 1126 of the Government Code.

(c) The authority shall make reasonable progress, as determined by the commission, in the design and construction of the project within the timetable imposed under the 1998 State Transportation Improvement Program.

SEC. 3. Section 132415 of the Public Utilities Code is amended to read:

132415. (a) The authority shall be governed by a board consisting of five voting members and three nonvoting members who shall be appointed as follows:

(1) Three members shall be appointed by the City Councils of the Cities of Los Angeles, Pasadena, and South Pasadena, with each city council appointing one member by a majority vote of the membership of that city council.

(2) One member shall be appointed by the President of the Governing Board of the San Gabriel Valley Council of Governments, subject to confirmation by that board.

(3) One member shall be appointed by the LACMTA.

(4) One nonvoting member shall be appointed by the Governor.

(5) Two nonvoting members shall be appointed by the City Councils of the Cities of Pasadena and South Pasadena, with each city appointing one nonvoting member.

(b) All members shall serve a term of not more than four years, with no limit on the number of terms that may be served by any person.

(c) Each appointing authority shall also appoint an alternate member to serve in a member's absence. If the position of a voting member becomes vacant, the alternate member shall serve until the position is filled as required pursuant to subdivision (a).

(d) Members of the board are subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(e) Three members of the board shall constitute a quorum.

(f) The board shall elect a chairperson and vice chairperson from among the membership of the board.

(g) Each member of the board may be compensated at a rate of not more than one hundred fifty dollars (\$150) per day spent attending to the business of the authority. Compensation, if paid, shall not exceed six hundred dollars (\$600) per month, plus expenses directly related to the performance of duties imposed by the authority, including, but not limited to, travel and personal expenses.

(h) Members appointed to the board may include members of the entities set forth in subdivision (a), and members of the city councils or other elected

officials of the extension cities, or both. The simultaneous membership described in this subdivision shall not constitute a violation of Section 1099 or 1126 of the Government Code.

SEC. 4. The provisions set forth in Section 2 and in subdivision (h) of Section 132415 of the Public Utilities Code as set forth in Section 3 of this act are declaratory of existing law as they pertain to conflicts of interest, incompatible offices, or incompatible activities, and the ability of board members and alternate members to participate in decisions and agreements regarding the Metro Gold Line Foothill Extension Construction Authority, any of the entities set forth in subdivision (a) of Section 132415 of the Public Utilities Code, and any of the cities adjoining the project right-of-way.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to avoid delays in the construction of the Metro Gold Line Foothill Extension Construction Authority Phase 2A project, it is necessary for this act to take effect immediately.